

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:02CR52
	§	
TRACY KENYON SEXTON	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on April 15, 2011, to determine whether Defendant violated his supervised release. Defendant was represented by Frank Henderson. The Government was represented by Camelia Lopez..

On January 23, 2003, Defendant was sentenced by the Honorable Paul Brown, United States District Judge, to a sentence of 105 months imprisonment followed by a three-year term of supervised release, for the offense of Felon in Possession of a Firearm. Defendant began his term of supervision on November 18, 2010. The case was reassigned to the Honorable Richard A. Schell.

On February 17, 2011, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (the "Petition") (Dkt. 33). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall report to the probation officer as directed by the Court or probation officer, and shall submit a truthful and complete written report within the first five days of each month; (2) Defendant shall work regularly at a lawful occupation

unless excused by the probation officer for schooling, training or other acceptable reasons;

(3) Defendant shall notify the probation officer ten days prior to any change of residence or employment; (4) Defendant shall permit a probation officer to visit at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer; and

(5) Defendant shall participate in a program of testing and treatment for drug abuse, under the guidance and direction of the U.S. Probation Office, until such times as Defendant is released from the program by the probation officer.

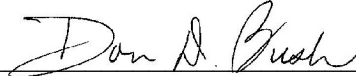
The Petition alleges that Defendant committed the following violations: (1) Defendant failed to provide a written report for the month of December 2010; (2) Defendant has failed to work and provide proof of employment for the months of November and December 2010, and January 2011; (3) Defendant absconded from his residence on or before January 6, 2011; (3) Defendant was not present for a scheduled home contact on January 6, 2011; and (4) Defendant failed to contact Community Health Care in Sulphur Springs on November 22, 2010, as instructed., and Defendant failed to participate in the random drug testing program on December 12, December 18, December 20, December 27, 2010 and January 4, January 11, January 17 and January 21, 2011.

At the hearing, Defendant entered a plea of true to all alleged violations. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his supervised release.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the April 15, 2011 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of seven (7) months, with twenty-nine (29) months supervised release to follow. The Court further recommends that Defendant's term of imprisonment be carried out in the Bureau of Prisons facilities in El Reno, Oklahoma, if appropriate.

SIGNED this 21st day of April, 2011.

A handwritten signature in cursive script, reading "Don D. Bush", written in black ink.

DON D. BUSH
UNITED STATES MAGISTRATE JUDGE